

### **REMARKS**

At the outset, the courtesies extended by the Examiner and her Supervisory Patent Examiner in granting the 17 September 2004 interview, and their professionalism at the interview, are appreciatively noted. During the interview, the references cited by the Examiner in the 11 August 2004 Office Action were discussed in light of the clarifying amendments proposed to the Claims by the undersigned attorney. Those clarifying amendments are included in the amendments as set forth herein.

Responsive to the Office Action and the discussions had at the interview, Claims 1, 3, 7, 9, 11, 16, and 18-20 are now amended accordingly for further prosecution with the other pending Claims. Also, Claim 8 is now canceled. It is believed that with such amendments to the Claims, there is a further clarification of their recitations.

In the Office Action, the Examiner directed the submission of an Information Disclosure Statement under 37 CFR § 1.98(b) for formal consideration of those references listed in the Specification. Accordingly, an Information Disclosure Statement, copies of those references not already cited by the Examiner, and requisite fee have now been filed to ensure the Examiner's formal consideration of the disclosed references.

In the Office Action, the Examiner objected to Fig. 4 of the Drawings under 37 CFR § 1.84(p)(4) for using the same reference character to designate different elements. Accordingly, a replacement Drawing sheet including Fig. 4 formally corrected to remove

this informality is submitted herewith.

The Examiner also objected to the Specification for making use of the same reference character in this regard. The appropriate paragraph of the Specification is now corrected by amendment to remove this informality. The correction incorporated is purely formal in nature and therefore introduces no new matter.

The Examiner objected to Claims 7, 11, 16, 19, and 20 for containing various specifically noted informalities. Corrections have now been incorporated into these amendments to address and remove each of the specifically noted informalities.

The Examiner rejected Claims 1, 8, 9, 14, and 15 under 35 U.S.C. § 102(b) as being anticipated by the Sovran reference. The Examiner also set forth a number of rejections under 35 U.S.C. § 103(a), as follows:

Claim 2 as being unpatentable over Sovran;

Claims 3-6 as being unpatentable over Sovran in view of the Collins reference;

Claim 7 as being unpatentable over Sovran in view of Collins, further in view of the Lefebvre reference;

Claim 10 as being unpatentable over Sovran, in view of the Hunt, et al. reference;

Claims 11-13 as being unpatentable over Sovran in view of the Ball, et al. reference;

Claim 16 as being unpatentable over Sovran in view of Collins;

Claim 17 as being unpatentable over Sovran in view of Collins, further in view of Lefebvre;

Claim 18 as being unpatentable over Sovran in view of Collins, further in view of Hunt, et al.;

Claim 19 as being unpatentable over Sovran in view of Collins, further in view of Ball, et al.; and,

Claim 20 as being unpatentable over Sovran in view of Collins, Hunt, et al. and Ball, et al.

In setting forth these rejections, the Examiner cited Collins for disclosing a column 30 which in certain embodiments may be used to hold wall panels oriented at different angles. The Examiner cited Lefebvre for disclosing interlocking block bodies 10 formed with tenons 36 and mortices 42; and, for disclosing a frame member 106 having a base plate 95 through which ground spikes may be driven for anchoring purposes. Additionally, the Examiner cited Ball, et al. for disclosing a securing structure formed with mounting arms 22 having collars and hooks for engaging a pole 20. The Examiner reasoned in combining various combinations of these references with the Sovran reference that modifying the Sovran device accordingly would have been obvious to one of ordinary skill in the art.

As each of the newly-amended independent Claims 1, 16, and 20 now more clearly recites, Applicant's reconfigurable barrier system is one which includes a plurality of

support units between which one or more retention units may be supported. One or more barrier sections may be thereby quickly built and configured as needed about a predetermined area requiring protection against, for instance, the entry of water. Among other features, at least one of the support units is formed with a pair of engagement sections extending therefrom to define “a substantially V-shaped sectional contour,” as each of the newly-amended independent Claims 1, 16, and 20 now more clearly recites. Such support unit is stabilized by a “base section” formed to project “transversely” from the engagement sections, as each of those Claims also now more clearly recites.

The full combination of these and other features now more clearly recited by Applicant’s pending Claims is nowhere disclosed by the cited references. Note in this regard that Sovran discloses a flood barrier intended to extend along lengthy stretches of a riverbank. Unlike Applicant’s highly modular and reconfigurable system, Sovran’s barrier is specified quite explicitly to provide “infrastructure” that is “installed permanently along the bank,” (column 2; lines 15-16). The fixed in-ground anchors (or holes 16) and the “thick bars” (Abstract) and other heavy duty hardware attest to the permanent nature of such infrastructure. Beyond this general departure from the reconfigurability of Applicant’s system, the pillars 15 of Sovran’s infrastructure, for instance, are nowhere formed with such features as engagement sections defining “a substantially V-shaped sectional contour,” as each of the newly-amended independent Claims 1, 16, and 20 recites.

Given such contrary and deficient teachings of the primarily-cited Sovran reference,

the teachings of the secondarily-cited references are found to be quite ineffectual to the present patentability analysis. The Examiner cited Collins for disclosing in its Fig. 9 columns 30 for supporting barrier sections at right angles. Among other things, Collins too discloses a rather permanent structure in which the columns are anchored to a steel-reinforced "concrete base in the ground," (Abstract) and encapsulated in place by an exterior stucco finish 90 "applied to the entire wall structure" which results (column 3; line 7). This hardly even suggests any reconfigurable barrier system of the type claimed by Applicant. Nor do any of Collins' columns 30 "define a substantially V-shaped sectional contour," as Claims 1, 16, and 20 clearly recite for Applicant's support units.

The Lefebvre reference discloses a modular containment structure wherein modular blocks sequentially connect end-to-end to themselves to form a retaining wall. Such a structure obviates the need for any "barrier section ... defined by a pair of support units and at least one ... retention unit supported thereby," as recited by Claim 1. In fact, the very point of the modular blocks' elaborate structure is to enable their direct interconnection. The structure precludes the use of any extraneous support unit therebetween, let alone the use of a support unit defining any particular sectional contour.

The Hunt, et al. reference was cited by the Examiner for disclosing the use of ground spikes for anchoring a base plate to the ground. Note, however, that base plate 95 of Fig. 16 on which the Examiner specifically relied is not itself equipped with any anchoring member formed to extend therefrom. Rather, Hunt, et al. discloses either a separate

grounding spike, or simple securement by a cable 114 to a separate ground anchor 115 already “deeply driven” and imbedded in the ground below. This reflects Hunt, et al.’s teaching of a rather substantial and relatively permanent frame structure for buildings instead of any conveniently reconfigurable barrier system of a type claimed by Applicant.

Turning finally to the Ball, et al. reference, the reference was – like the other secondarily-cited references – relied upon for its isolated teaching of a certain structural feature. In this case, the Examiner relied upon the securement of the disclosed electric fence’s holes 20 to the support poles 14 of a nearby fence. A number of distinctions are readily apparent. Ball, et al.’s electric fence is far from being the reconfigurable system that Applicant’s claimed system is. It is certainly not “adapted to block the passage of water into a predetermined area,” as Applicant’s system is. Moreover, unlike Applicant’s brace unit which may be positioned for securement to those barrier section portions most requiring reinforced support in a particular application, the mounting arms 22 of Ball, et al. are limited in their securement necessarily to the insulated support poles 20 of the electric fence. They cannot secure directly to the conducted screen 28 extending between these poles 20, for instance, lest catastrophic electric shorting occur.

Thus, it is respectfully submitted that the references cited by the Examiner, even when considered together, fail to disclose the unique combination of elements now more clearly recited by Applicant’s Claims for the purposes and objectives disclosed in the subject Patent Application.

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Reply to Office Action of 11 August 2004

It is now believed that the subject Patent Application has been placed fully in condition for allowance, and such action is respectfully requested.

Respectfully submitted,  
For: ROSENBERG, KLEIN & LEE

A handwritten signature in black ink, appearing to be 'Jun Y. Lee', written over a horizontal line.

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**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawing includes changes to FIG. 4. This sheet, which includes FIG. 4, replaces the original sheet including the figure. In FIG. 4, an erroneous reference number is corrected.

Attachment: Replacement Sheet